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BIRCH STEWART KOLASCH & BIRCH			EXAMINER	
PO BOX 747			PALO, FRANCIS T	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

DETAILED ACTION

Supplementary Advisory Action

This supplementary advisory action is mailed at the request of applicant's representative for redress of examiner's response to the Declaration filed 1/4/08.

A *prima facie* case for obviousness has been submitted regarding Nilsson '633 as modified, and is maintained in the final rejection mailed 8/23/07, as applicant's Declaration does not serve to demonstrate the inoperability of the prior art as presented by the office.

Applicant by the Declaration filed 1/4/08 is attempting to "show that the present invention is distinct from and patentable over the cited references", by the conduct of additional experiments following the final office action mailed 8/23/07. These experiments and comments are not found to be convincing in an attempt to overcome the claim rejections.

Applicant begins the showing of distinctness with an overview of an embodiment of a seed capsule of Nilsson '633, the primary reference; here, applicant does not distinguish the seed ball prepared from peat which may optionally be mixed with various additives and prepared in two halves as taught by Nilsson, over the broad mixing, compressing and drying steps recited in the independent claim to form a pellet comprising a lid and base as claimed.

Applicant next presents data on growth of bulb size depending on the absence or presence of a fertilizer and a growth hormone. It is not clear what applicant is attempting by comparison of pellets between the present invention and Nilsson, as applicant discusses planting(s) conducted in an aluminum foil bowl filled with peat in which the top layer was mixed with sand....., and then comparing to pellets between the present invention.

It is unclear how the aluminum foil bowl filled with peat is analogous to the seed balls (capsules) of Nilsson, and other than claiming mixing of peat and additives and compressing the mixture to form a pellet by dividing into a lid and base and further drying, the pellet of the instant invention is rather broadly claimed. Specifically, is the instant pellet made by hand or mechanized, and how is the lid effected after compressing the mixture to form a pellet.

Applicant has not distinguished the broadly claimed pellet from the prior art by his experiments conducted in a bowl of peat moss with and without additives; whereas the independent claim merely recites the addition of additives to peat moss for the making of a pellet mixture.

In experiment-II of the Declaration, applicant explains that at the time of manufacturing pellets, bulbs should not be inserted into pellets until the pellets become dry.

Applicant's experiments with different moisture contents do not distinguish over the prior art wherein it is old in the art to dry peat pellets for use or storage at from 15-20% moisture content and to then rehydrate at planting or not; whereas the claim only recites drying the pellet to achieve a water content of 15-25% which Nilsson as modified by Melvoid '989 teaches.

Concluding, applicant's Declaration lacks a convincing showing that the present invention is distinct from and patentable over the cited references **as claimed**, and that Nilsson as modified is inoperative; and while the instant invention is concerned with a method, said method and cited structural limitations are quite broad in their reading.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Francis T. Palo/
Primary Examiner
Art Unit 3644

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